

HARVEY P. SACKETT (72488)

**S A C K E T T**  
**AND ASSOCIATES**  
 A PROFESSIONAL LAW CORP.

548 Market Street, Suite 38822  
 San Francisco, California 94104-5401  
 Telephone: (408) 295-7755  
 Facsimile: (408) 295-7444  
 Email: hps@sackettlaw.com

Attorney for Plaintiff

/as

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

GEORGE DIAZ DE LEON,	)	Case No.: 3:20-cv-03552-SK
	)	
Plaintiff,	)	STIPULATION AND ORDER FOR
	)	THE AWARD AND PAYMENT
v.	)	OF ATTORNEY FEES
	)	PURSUANT TO THE EQUAL
KILOLO KIJAKAZI, <sup>1</sup>	)	ACCESS TO JUSTICE ACT, 28
Acting Commissioner of Social Security,	)	U.S.C. § 2412(d)
	)	
Defendant.	)	
	)	
	)	

On November 9, 2021 this Court issued an order reversing the final decision of the Defendant, Andrew Saul, the Commissioner of Social Security (Commissioner), with a remand for a rehearing, 42 U.S.C. § 405(g) (sentence four); judgment was entered.

<sup>1</sup> Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure Kilolo Kijakazi should be substituted, therefore, for Commissioner Andrew Saul as Defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 In the interest of administrative and judicial economy, the parties have agreed to  
 2 stipulate that an award of FIVE THOUSAND NINETY-THREE DOLLARS AND  
 3 SEVENTY-SIX CENTS (\$5,093.76) in attorney fees under the Equal Access to Justice Act  
 4 (EAJA), 28 U.S.C. § 2412(d), is reasonable. This award is without prejudice to Plaintiff's  
 5 right to seek attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. §  
 6 406(b), subject to the offset provisions of the EAJA. However, this award shall constitute a  
 7 complete release from and bar to any claims Plaintiff may have relating to EAJA fees and  
 8 costs. Further, such award shall not be used as precedent in any future cases, nor be construed  
 9 as a concession by the Commissioner that the original administrative decision denying benefits  
 10 to Plaintiff was not substantially justified.

11 After the Court issues an order for EAJA fees to Plaintiff, the Government will  
 12 consider the matter of Plaintiff's assignment of EAJA fees to Harvey P. Sackett ("Counsel").  
 13 Pursuant to Astrue v. Ratliff, 560 U.S. 586 (2010), the ability to honor an assignment will  
 14 depend on whether the fees are subject to any offset allowed under the United States  
 15 Department of the Treasury's Offset Program. After the order for EAJA is entered, the  
 16 Government will determine whether they are subject to offset. Fees shall be made payable to  
 17 Plaintiff, but if the Department of Treasury determines Plaintiff does not owe a federal debt,  
 18 then the Government shall cause the payment of fees, expenses, and costs to be made payable  
 19 directly to Counsel, pursuant to the assignment executed by Plaintiff. Any payments made  
 20 shall be delivered and made payable to Counsel.

21 Accordingly, Defendant agrees to pay Plaintiff \$5,093.76 in attorney's fees.

22 All parties whose signature lines appear in this document have consented to its filing.  
 23 This award is without prejudice to the rights of Sackett and Associates and/or Harvey P.  
 24 Sackett to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the  
 25 savings clause provisions of the EAJA.

1 Dated: January 18, 2022

SACKETT AND ASSOCIATES

2 By: /s/ HARVEY P. SACKETT  
3 HARVEY P. SACKETT  
4 Attorney for Plaintiff  
5 GEORGE DIAZ DE LEON

6 Dated: January 18, 2022

STEPHANIE HINDS  
United States Attorney

7 By: /s/ ARMAND D. ROTH  
8 ARMAND D. ROTH  
9 Special Assistant United States Attorney  
10 Attorney for Defendant  
11 [\*As authorized by email on 1/18/22]

12 **ORDER**

13 Pursuant to the stipulation, the Court Orders Defendant to pay Plaintiff \$5,093.76  
14 in attorneys' fees.

15 Dated: January 19, 2022

16   
17 HON. SALLIE KIM  
18 United States Magistrate Judge  
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